

AM9-99-0239  
09/634,546REMARKS

This amendment is in response to the Examiner's Office Action dated 11/19/2004 and further in view of the interview of 01/12/2005. Applicant is appreciative of the professional and courteous interview held with the examiner. Reconsideration of this application is respectfully requested in view of the foregoing amendment and the remarks that follow.

STATUS OF CLAIMS

Claims 1, 3-16, 21 and 23-28 are pending.

Claims 1, 3-16, 21 and 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gershman et al. (USP 6199099) in view of Shkedy (USP 6260024 B1).

OVERVIEW OF CLAIMED INVENTION

The presently claimed invention provides an improved method of surveying prices located across an e-commerce environment (e.g., goods available in an auction, online catalog, or electronically connected supply center). The prior art has many systems which go out on the web and look-up prices and return the prices to the buyer. However, suppose a "small business" wanted to negotiate the absolute best price from various sources on 50 printers, but chooses not to reveal its identity for fear of an associated cost mark-up or lower discount; the present invention allows the use of sophisticated buyer profiles (previously created over time and recognized by the seller as such) to get the best quote. In this scenario, the sophisticated buyer profile may be disguised to look like a very large business to optimize a volume discount and you and the next buyer and the next buyer could use this large business profile to continuously get the best prices. The seller only thinks that a large business is purchasing large quantities of printers,

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and gives a maximum discount without ever knowing that in fact the repeated buying history is performed by many smaller businesses. The present invention further will complete the purchase without ever revealing to the seller the true identity of the purchaser.

Another feature of the current invention is a method to uncover price structures, for example, to the airfare market. Airlines do not publish their fare structure. They do not make it clear how the fare depends on the time of the day, the day of the week and the date. The buyer tells the desired time of travel and the airline returns a fare. Airline fares are repeatedly probed by the present system for uncovering such structures. It then suggests to the buyers how money can be saved by changing the requested time of the day, day of the week, etc.

The present invention provides for a system and method facilitating transactions between buyers and sellers in an electronic commerce (e-commerce) model. When an item of interest is selected, the system scours the Internet to find the lowest price available for the desired product or service. Based on posted prices, bid prices, posted quotes, quoted prices, and auctions, the present invention ascertains wholesale prices and offers "advice" about the desired product or service. From the collected wholesale prices, reference points are generated that allow a system to determine whether a particular vendor's pricing is reasonable. Reference points allow a user to be directed to those vendors typically having the lowest wholesale prices.

Furthermore, to enhance a competitive e-commerce marketplace, anonymous and fictitious user profiles comprising identities and reputations as sophisticated buyers are created to survey prices quoted by vendors. In this manner, statistical distributions based on prices anonymously gathered by the system are generated such that an individual buyer can compare the

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quote or price they receive from a vendor with those regularly observed by the system. The system also obtains specific quotes on behalf of a buyer using a fictitious name and identity. To preserve the anonymity of an individual buyer, an option to receive a shipment of the desired product at location different from that of the buyer is also provided.

#### REJECTIONS UNDER 35 USC § 103(a)

The examiner has rejected claims 1, 3-16, 21, and 23-28 under 35 U.S.C. §103(a) as being unpatentable over Gershman et al. (USP 6,199,099) in view of Shkedy (USP 6,260,024). To be properly rejected under 35 U.S.C. §103(a), each and every element of the rejected claim(s) must be addressed through known prior art or be recognized as an obvious variation thereof. The applicant, however, contends that many of the claim limitations of claims 1, 3-16, 21, and 23-28 cannot be rendered obvious in view of the '099 or '024 references or any combination thereof.

Gershman et al. provides for a system, method, and an article of manufacture for obtaining information on a mobile computing environment (such as a thin client computer). Based upon Gershman's invention, a wireless phone or similar hand-held device with Internet Protocol capability is combined with other peripherals to provide a portable portal into the Internet. Gershman describes a service routine (that is used in conjunction with the hand-held device) that queries the Web utilizing a distributed communications network to find price, shipping, and availability information from various Web suppliers. Any gathered information is then displayed in the hand-held device.

Shkedy provides for a method and apparatus for facilitating buyer-driven purchase orders on a commercial network system. Shkedy teaches a central controller that fields binding offers

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from buyers (see figure 1, element 16 – buyers “A”, “B”, “C”, “D”, and “E”), aggregates the offers into group (i.e., pooled) offers, and communicates the group offers to potential sellers (see figure 1, element 16 – sellers “A”, “B”, “C”, “D”, and “E”). If users U1 and U2 are interested in buying product P, Shkedy's method pools these orders together into a group offer and allows sellers to bid on the offer to identify the most competitive seller that offers product P. Hence, Shkedy's method/apparatus optimizes prices by groups of buyers, wherein such aggregation allows buyers to get closer to wholesale prices instead of retail prices.

Specifically, regarding claims 1 and 27, examiner cites figure 9 (and associated text); column 28, line 64 - column 29, line 53; column 29, line 56 - column 30, line 27; and column 56, line 1 - column 57, line 11 (“shopper's eye”) in support of his argument that Gershman provides for “one or more automated surveyors” for surveying a plurality of posted prices, bid process, posted quotes, quotes process, and auctions. A closer reading of the citations indicates that the Gershman reference merely provides for a module that receives, from a wireless device, data corresponding to a bar code on a book or other object. The module then contacts other third-party web sites to find price, shipping, and availability, wherein such information is then rendered to the user of the wireless device. There is no mention of comparing prices from vendors offering the same product nor is there any mention of obtaining quote or bid prices of any sort. Hence, applicant contends that Gershman fails to teach or render obvious the limitation of “one or more automated surveyors” surveying posted prices, bid prices, posted quotes, quoted prices, and auctions.

Regarding independent claims 1 and 27, the examiner cites figures 12-14, column 32, line 7 – column 33, line 50 in support of his argument that Gershman provides for the “buyer profile”

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limitation. A closer examination of the cited pages (and the patent in its entirety) suggests that the Gershman reference provides multiple personas for each user. For example, a single user can maintain a "work persona" and a "home persona". Figures 12-14 further re-emphasizes this point by showing how a user "David Smith" 1200 is able to maintain a work persona 1220, a home persona 1230 and a Tahoe persona 1240. Applicant contends that the cited paragraphs and figures fail to disclose a buyer profile that is used multiple times to develop historical usage representing a sophisticated buyer. Applicant further contends that the profile of Gershman is user-specific. The anonymous buyer profile of the present invention, on the other hand, is built and developed by the system based upon historical usage, wherein, at a later point, various users are matched with appropriate buyer profiles (wherein the users are able to use appropriate profiles to purchase products anonymously). In other words, the anonymous buyer profile of the claimed invention is not associated with a particular user.

In page 4 of the office action, the examiner appears to rely on the Skhedy reference for teaching the limitation of an "anonymous" profile. Specifically, the examiner cites figures 1, 2A, 5-10 (associated text), and column 13, line 7 through column 18, line 36 for support of his argument that Skhedy provides for an anonymous profile. As mentioned in the discussion above, and as pointed out during the interview of 01/12/2005, the Skhedy reference merely teaches pooling/aggregating purchase orders for a plurality of buyers, so such buyers can obtain wholesale prices instead of retail prices (for example, see column 14, lines 7-25; "buyer is presented with a form ... with a selection of pool dates"; "pool dates define the particular day on which sellers will be allowed to place bids on PPOs"). As per the citations, Skhedy's method requires large groups of buyers to be aggregated. But, conspicuously absent in the citations and the Skhedy reference in its entirety is the teaching of an anonymous buyer profile that is used

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multiple times to develop historical usage representing a sophisticated buyer. The present invention does not require several buyers to be interested in buying the same product or service to obtain a lowest possible price. Rather, all buyers, regardless of whether these buyers are corporations or individuals, are afforded the same lowest price on any quantity of product or service they wish to purchase.

As per the arguments presented above, and the arguments presented during the interview of 01/12/2005, applicant contends that many of the claim limitations of independent claims 1 and 27 cannot be rendered obvious in view of the '099 or '024 references or any combination thereof.

Applicant wishes to note that the above-mentioned arguments with respect to independent claim 1 and 27 (i.e., with respect to maintaining an anonymous buyer profile representing a sophisticated buyer) substantially apply to independent claim 12. Furthermore, regarding claim 12, the examiner contends that the Gershman reference provides the limitation of "indicating to sellers when they are competitive, and influencing them to lower prices". In support of his arguments, the examiner cites column 57, lines 4-7 of the Gershman patent. A closer examination of the cited paragraphs shows that the Gershman patent merely teaches negotiating "prices and service options with retailers". Conspicuously absent in the citations and the Gershman patent in its entirety is a teaching for notifying a seller regarding competitors (offering a better price) and influencing sellers to lower prices. Applicant, therefore, contends that the shopping agent of Gershman is merely able to negotiate prices on behalf of a user. In stark contrast, the present invention's system and method teaches the development of a sophisticated buyer profile which is then used to inform sellers of lower prices quoted by competitors and advises them to consider lowering their prices (i.e., influencing them to lower prices).

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Hence, applicant contends that many of the claim limitations of independent claim 12 cannot be rendered obvious in view of the '099 or '024 references or any combination thereof.

It should be noted that the above-mentioned arguments with respect to independent claims 1, 12, and 27 (i.e., with respect to maintaining an anonymous buyer profile representing a sophisticated buyer) substantially apply to independent claim 21. Regarding independent claim 21, applicant agrees with the examiner's contention that the Gershman reference does not provide for the generation of fictitious names. However, applicant disagrees with the examiner's statement on page 6 of the office action that it would have been obvious to one skilled in the art at the time the invention was made to combine Gershman's and Shkedy's teachings to provide for the limitation of "building reputation of said fictitious name(s) as sophisticated buyer(s)". Absent in the office action are any citations or support for how the Shkedy reference provides for such a limitation. Based on a reading of the entirety of the Shkedy reference, applicant fails to see any explicit or implicit recitation of building reputations fictitious name(s) as sophisticated buyers.

Hence, applicant contends that many of the claim limitations of independent claim 21 cannot be rendered obvious in view of the '099 or '024 references or any combination thereof.

With regard to dependent claims 3-11, 13-16, 23-26, and 28, the aforementioned arguments made for independent claims substantially apply in that they inherit limitations of the claims upon which they depend.

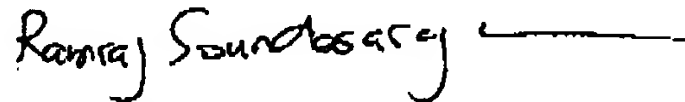
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09/634,546SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicant's presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this amendment has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 12-0010.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicant's representative at the below number.

Respectfully submitted,



Ramraj Soundararajan  
Registration No. 53,832

1725 Duke Street  
Suite 650  
Alexandria, Virginia 22314  
(703) 838-7683  
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